



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2404

Introduced 2/17/2021, by Rep. Kambium Buckner

SYNOPSIS AS INTRODUCED:

New Act

Creates the Right to Know Act. Provides that an operator of a commercial website or online service that collects personally identifiable information through the Internet about individual customers residing in Illinois who use or visit its commercial website or online service shall notify those customers of certain specified information pertaining to its personal information sharing practices. Requires an operator to make available certain specified information upon disclosing a customer's personal information to a third party, and to provide an e-mail address or toll-free telephone number whereby customers may request or obtain that information. Provides for a data protection safety plan. Provides for a right of action to customers whose rights are violated under the Act. Provides that any waiver of the provisions of the Act or any agreement that does not comply with the applicable provisions of the Act shall be void and unenforceable. Provides that no provision of the Act shall be construed to conflict with or apply to certain specified provisions of federal law or certain interactions with State or local government. Provides findings and purpose. Defines terms.

LRB102 14514 RJF 19867 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Right
5 to Know Act.

6 Section 5. Findings and purpose.

7 The General Assembly hereby finds and declares that the
8 right to privacy is a personal and fundamental right protected
9 by the United States Constitution. As such, all individuals
10 have a right to privacy in information pertaining to them.
11 This State recognizes the importance of providing consumers
12 with transparency about how their personal information,
13 especially information relating to their children, is shared
14 by businesses. This transparency is crucial for Illinois
15 citizens to protect themselves and their families from
16 cyber-crimes and identity thieves. Furthermore, for free
17 market forces to have a role in shaping the privacy practices
18 and for "opt-in" and "opt-out" remedies to be effective,
19 consumers must be more than vaguely informed that a business
20 might share personal information with third parties. Consumers
21 must be better informed about what kinds of personal
22 information are shared with other businesses. With these
23 specifics, consumers can knowledgeably choose to opt-in,

1 opt-out, or choose among businesses that disclose information
2 to third parties on the basis of how protective the business is
3 of consumers' privacy.

4 Businesses are now collecting personal information and
5 sharing and selling it in ways not contemplated or properly
6 covered by the current law. Some websites are installing
7 tracking tools that record when consumers visit web pages, and
8 sending very personal information, such as age, gender, race,
9 income, health concerns, religion, and recent purchases to
10 third party marketers and data brokers. Third party data
11 broker companies are buying, selling, and trading personal
12 information obtained from mobile phones, financial
13 institutions, social media sites, and other online and brick
14 and mortar companies. Some mobile applications are sharing
15 personal information, such as location information, unique
16 phone identification numbers, and age, gender, and other
17 personal details with third party companies. As such,
18 consumers need to know the ways that their personal
19 information is being collected by companies and then shared or
20 sold to third parties in order to properly protect their
21 privacy, personal safety, and financial security.

22 Section 10. Definitions. As used in this Act:

23 "Categories of personal information" includes, but is not
24 limited to, the following:

25 (a) Identity information including, but not limited

1 to, real name, alias, nickname, and user name.

2 (b) Address information, including, but not limited
3 to, postal or e-mail.

4 (c) Telephone number.

5 (d) Account name.

6 (e) Social security number or other government-issued
7 identification number, including, but not limited to,
8 social security number, driver's license number,
9 identification card number, and passport number.

10 (f) Birthdate or age.

11 (g) Physical characteristic information, including,
12 but not limited to, height and weight.

13 (h) Sexual information, including, but not limited to,
14 sexual orientation, sex, gender status, gender identity,
15 and gender expression.

16 (i) Race or ethnicity.

17 (j) Religious affiliation or activity.

18 (k) Political affiliation or activity.

19 (l) Professional or employment-related information.

20 (m) Educational information.

21 (n) Medical information, including, but not limited
22 to, medical conditions or drugs, therapies, mental health,
23 or medical products or equipment used.

24 (o) Financial information, including, but not limited
25 to, credit, debit, or account numbers, account balances,
26 payment history, or information related to assets,

1 liabilities, or general creditworthiness.

2 (p) Commercial information, including, but not limited
3 to, records of property, products or services provided,
4 obtained, or considered, or other purchasing or consumer
5 histories or tendencies.

6 (q) Location information.

7 (r) Internet or mobile activity information,
8 including, but not limited to, Internet protocol addresses
9 or information concerning the access or use of any
10 Internet or mobile-based site or service.

11 (s) Content, including text, photographs, audio or
12 video recordings, or other material generated by or
13 provided by the customer.

14 (t) Any of the above categories of information as they
15 pertain to the children of the customer.

16 "Customer" means an individual residing in Illinois who
17 provides, either knowingly or unknowingly, personal
18 information to a private entity, with or without an exchange
19 of consideration, in the course of purchasing, viewing,
20 accessing, renting, leasing, or otherwise using real or
21 personal property, or any interest therein, or obtaining a
22 product or service from the private entity, including
23 advertising or any other content.

24 "Designated request address" means an e-mail address or
25 toll-free telephone number whereby customers may request or
26 obtain the information required to be provided under Section

1 15 of this Act.

2 "Disclose" means to disclose, release, transfer, share,
3 disseminate, make available, or otherwise communicate orally,
4 in writing, or by electronic or any other means to any third
5 party. "Disclose" does not include the following:

6 (a) Disclosure of personal information by a private
7 entity to a third party under a written contract
8 authorizing the third party to utilize the personal
9 information to perform services on behalf of the private
10 entity, including maintaining or servicing accounts,
11 providing customer service, processing or fulfilling
12 orders and transactions, verifying customer information,
13 processing payments, providing financing, or similar
14 services, but only if (i) the contract prohibits the third
15 party from using the personal information for any reason
16 other than performing the specified service or services on
17 behalf of the private entity and from disclosing any such
18 personal information to additional third parties, and (ii)
19 the private entity effectively enforces these
20 prohibitions.

21 (b) Disclosure of personal information by a business
22 to a third party based on a good-faith belief that
23 disclosure is required to comply with applicable law,
24 regulation, legal process, or court order.

25 (c) Disclosure of personal information by a private
26 entity to a third party (i) that is reasonably necessary

1 to address fraud, security, or technical issues, (ii) to
2 protect the disclosing private entity's rights or
3 property, or (iii) to protect customers or the public from
4 illegal activities as required or permitted by law.

5 "Operator" means any person or entity that owns a website
6 located on the Internet or an online service that collects and
7 maintains personally identifiable information from a customer
8 residing in Illinois who uses or visits the website or online
9 service if the website or online service is operated for
10 commercial purposes. It does not include any third party that
11 operates, hosts, or manages, but does not own, a website or
12 online service on the owner's behalf or by processing
13 information on behalf of the owner.

14 "Personal information" means any information that
15 identifies, relates to, describes, or is capable of being
16 associated with, a particular individual, including, but not
17 limited to, his or her name, signature, physical
18 characteristics or description, address, telephone number,
19 passport number, driver's license or State identification card
20 number, insurance policy number, education, employment,
21 employment history, bank account number, credit card number,
22 debit card number, or any other financial information.

23 "Personal information" also means any data or information
24 pertaining to an individual's income, assets, liabilities,
25 purchases, leases, or rentals of goods, services, or real
26 property, if that information is disclosed, or is intended to

1 be disclosed, with any identifying information, such as the
2 individual's name, address, telephone number, or social
3 security number.

4 "Third party" or "third parties" means (i) a private
5 entity that is a separate legal entity from the private entity
6 that has disclosed personal information, (ii) a private entity
7 that does not share common ownership or common corporate
8 control with the private entity that has disclosed personal
9 information, or (iii) a private entity that does not share a
10 brand name or common branding with the private entity that has
11 disclosed personal information such that the affiliate
12 relationship is clear to the customer.

13 Section 15. Notification of information sharing practices.
14 An operator of a commercial website or online service that
15 collects personally identifiable information through the
16 Internet about individual customers residing in Illinois who
17 use or visit its commercial website or online service shall,
18 in its customer agreement or incorporated addendum (i)
19 identify all categories of personal information that the
20 operator collects through the website or online service about
21 individual customers who use or visit its commercial website
22 or online service, (ii) identify all categories of third party
23 persons or entities with whom the operator may disclose that
24 personally identifiable information, and (iii) provide a
25 description of a customer's rights, as required under Section

1 25 of this Act, accompanied by one or more designated request
2 addresses.

3 Section 20. Disclosure of a customer's personal
4 information to a third party.

5 (a) An operator that discloses a customer's personal
6 information to a third party shall make the following
7 information available to the customer free of charge:

8 (1) all categories of personal information that were
9 disclosed; and

10 (2) the names of all third parties that received the
11 customer's personal information.

12 (b) This Section applies only to personal information
13 disclosed after the effective date of this Act.

14 Section 25. Information availability service.

15 (a) An operator required to comply with Section 20 shall
16 make the required information available by providing a
17 designated request address in its customer agreement or
18 incorporated addendum, and, upon receipt of a request under
19 this Section, shall provide the customer with the information
20 required under Section 20 for all disclosures occurring in the
21 prior 12 months.

22 (b) An operator that receives a request from a customer
23 under this Section at one of the designated addresses shall
24 provide a response to the customer within 30 days.

1 Section 30. Data protection safety plan. Each manufacturer
2 or company doing business in this State, or which collects
3 personal information from customers who are residents of this
4 State, shall develop a safety plan for the protection of
5 customer data.

6 Section 35. Right of action. Any person whose rights under
7 this Act are violated shall have a right of action against an
8 offending party, and shall recover: (i) liquidated damages of
9 \$10 or actual damages, whichever is greater; (ii) injunctive
10 relief, if appropriate; and (iii) reasonable attorneys' fees,
11 costs, and expenses.

12 Section 40. Waivers; contracts. Any waiver of the
13 provisions of this Act shall be void and unenforceable. Any
14 agreement that does not comply with the applicable provisions
15 of this Act shall be void and unenforceable.

16 Section 45. Construction.

17 (a) Nothing in this Act shall be construed to conflict
18 with the federal Health Insurance Portability and
19 Accountability Act of 1996 and the rules promulgated under
20 that Act.

21 (b) Nothing in this Act shall be deemed to apply in any
22 manner to a financial institution or an affiliate of a

1 financial institution that is subject to Title V of the
2 federal Gramm-Leach-Bliley Act of 1999 and the rules
3 promulgated under that Act.

4 (c) Nothing in this Act shall be deemed to apply to the
5 activities of an individual or entity to the extent that those
6 activities are subject to Section 222 or 631 of the federal
7 Communications Act of 1934.

8 (d) Nothing in this Act shall be construed to apply to a
9 contractor, subcontractor, or agent of a State agency or local
10 unit of government when working for that State agency or local
11 unit of government.